

Introduced by

1 A BILL for an Act to create and enact a new section to chapter 15.1-09 of the North Dakota  
2 Century Code, relating to school district vehicle and heating fuel purchases; to amend and  
3 reenact sections 15.1-07-17 and 15.1-07-22, subsection 5 of section 15.1-08-06, subsection 2  
4 of section 15.1-09-01, sections 15.1-09-25, 15.1-09-34, and 15.1-09-50, subsection 9 of section  
5 15.1-12-10, and subsection 7 of section 21-03-07, relating to school district contracts, military  
6 installation school districts, school district personnel and board member oaths, school board  
7 size, fuel purchases, school board powers, reorganization, and bond issuances; and to provide  
8 a penalty.

9 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

10 **SECTION 1. AMENDMENT.** Section 15.1-07-17 of the 1999 Supplement to the North  
11 Dakota Century Code is amended and reenacted as follows:

12 **15.1-07-17. School district contracts - Conflict of interest - Penalty.**

- 13 1. A school board member or other school officer who has a conflict of interest in any  
14 contract requiring the expenditure of school funds shall disclose the conflict to the  
15 board and may not participate in any discussions or votes regarding that contract  
16 without the consent of all other board members.
- 17 2. For purposes of this section, a conflict of interest means the personal, professional,  
18 or pecuniary interest of an individual, the individual's spouse or relative, or the  
19 individual's business or professional associate.
- 20 3. ~~After the disclosure required by subsection 1 has been made, a board may engage~~  
21 ~~in future contracts with the individual for the purchase of goods and services,~~  
22 ~~provided that the amount of a contract does not exceed eight thousand dollars.~~
- 23 4. Any person who violates this section is guilty of a class A misdemeanor.

**NOTE:** The 1999 Senate Education Committee had proposed an amendment to this section. It was the intent of the committee that conflicts of interest be dealt with as set forth in subsection 1 and that the language regarding participation after disclosure be deleted.

**SECTION 2. AMENDMENT.** Section 15.1-07-22 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15.1-07-22. School district business manager - Affirmation or oath of office.** An individual ~~appointed~~ employed as a school district business manager shall take and file an affirmation or oath of office within ten days after receiving notice of the hiring and before commencing duties. If the individual refuses to take the affirmation or oath of office required by this section, the individual's action is deemed to be a refusal to serve and a failure to qualify for the office pursuant to section 44-02-01.

**NOTE:** 1999 House Bill No. 1181 was introduced at the request of the Secretary of State. It contained the following amendment:

**15-47-08. Oath of office of school district officers.** Each person elected or appointed as a member of the school board or as a business manager of the school district, before entering upon the duties of his office, shall take and file with the business manager of the school district the oath prescribed for civil officers within ten days after notice of the person's election or appointment. Refusal to take the oath of office, as required by this section, must also be deemed a refusal to serve and, therefore, a failure to qualify for the office pursuant to section 44-02-01.

Section 15-47-08 was, however, repealed as part of the Title 15 rewrite. Because House Bill No. 1181 did not amend the succeeding section in Title 15.1, (Section 15.1-07-22), the intent of the Secretary of State's amendment was not codified.

Section 15-47-08 provides that the business manager shall take the oath and file it with the business manager. The committee may wish to determine if the business manager is the entity with whom the business manager's oath should be filed. The committee may also wish to determine if this section should be maintained. Business managers are bonded, as required by Section 15.1-07-23. Apparently, the taking and the filing of an oath or affirmation are no longer common practice.

**SECTION 3. AMENDMENT.** Subsection 5 of section 15.1-08-06 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

5. Sections 15.1-07-10 through 15.1-07-13, ~~45.1-07-24~~ 15.1-07-23, and ~~45.1-07-26~~ 15.1-07-25 are applicable to military installation school districts established under this chapter.

**NOTE:** This amendment corrects an error in the cross-reference.

**SECTION 4. AMENDMENT.** Subsection 2 of section 15.1-09-01 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

2. The size of any school district board may be increased to either five, seven, or nine members or decreased to seven or five members if a petition is signed by ~~at least one-third of the~~ qualified electors of the district, equal in number to at least one-third of those who voted at the most recent annual school district election, and the change is approved by a majority of the qualified electors of the district voting on the question at a special election called for that purpose.

**NOTE:** Under present law, this section appears to require that the petition be signed by one-third of the qualified electors in the district. The section had originally required that the petition be signed by one-third of those qualified electors who voted in the last annual school district election. The amendment clarifies the original intent of the section.

**SECTION 5. AMENDMENT.** Section 15.1-09-25 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15.1-09-25. School board members - Affirmation or oath of office.** An individual elected as a member of or appointed to a school board shall take and file with the school district business manager an affirmation or oath of office within ten days after receiving notice of the election or appointment and before commencing duties. If the individual refuses to take the affirmation or oath of office required by this section, the individual's action is deemed to be a refusal to serve and a failure to qualify for the office pursuant to section 44-02-01.

**NOTE:** 1999 House Bill No. 1181 was introduced at the request of the Secretary of State. It contained the following amendment:

**15-47-08. Oath of office of school district officers.** Each person elected or appointed as a member of the school board or as a business manager of the school district, before entering upon the duties of his office, shall take and file with the business manager of the school district the oath prescribed for civil officers within ten days after notice of the person's election or appointment. Refusal to take the oath of office, as required by this section, must also be deemed a refusal to serve and, therefore, a failure to qualify for the office pursuant to section 44-02-01.

Section 15-47-08 was, however, repealed as part of the Title 15 rewrite. Because House Bill No. 1181 did not amend the succeeding section in Title 15.1, (Section 15.1-09-25), the intent of the Secretary of State's amendment was not codified.

**SECTION 6. AMENDMENT.** Section 15.1-09-34 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15.1-09-34. Contracts by school boards - Bids - Penalty.**

1. Except as provided in this section, the board of a school district may not enter a contract involving the expenditure of an aggregate amount greater than twenty-five thousand dollars unless the school board has given ten days' notice by publication in the official newspaper of the district, received sealed bids, and accepted the bid of the lowest responsible bidder. This section does not apply to contracts for:
  - a. The personal services of district employees.
  - b. Textbooks and reference books.
  - c. Articles not sold on the open market.
  - d. Patented, copyrighted, or exclusively sold devices or features required to match articles already in use.
  - e. Patented, copyrighted, or exclusively sold articles so distinctive that only one brand can be purchased.
  - f. Building construction projects under chapters 48-01.1 and 48-02.
  - g. School transportation services purchased under section 15.1-30-11.
  - h. Vehicle fuel purchased under section 7 of this Act.
  - i. Heating fuel purchased under section 7 of this Act.
  - j. The purchase of a used motor vehicle, including a schoolbus, motorbus, or van, intended primarily for the transportation of students.
2. For purposes of this section, a "used motor vehicle" means a motor vehicle that has been previously owned or leased and which has an odometer reading in excess of eighteen thousand miles [28967 kilometers].

3. A board member who participates in a violation of this section is guilty  
of a class B misdemeanor.

**NOTE:** At the request of the North Dakota School Boards Association, cross-references were added to subdivisions g through i of subsection 1. The intent was to provide notice that while contracts for the purchase of school transportation services, vehicle fuel, and heating fuel do not fall under this section, they are governed by the provisions of section 15.1-30-06 and section 7 of this Act, respectively.

**SECTION 7.** A new section to chapter 15.1-09 of the North Dakota Century Code is created and enacted as follows:

**Vehicle and heating fuel - Purchases.** At least once each year, the board of a school district shall publish in the official newspaper of the district information regarding the registration of vehicle fuel vendors and heating fuel vendors. The board may purchase vehicle fuel and heating fuel only after seeking written quotes from all vendors who registered with the district for that school year.

**NOTE:** This section, which is a rewrite of present Section 15-34.2-07.2, was located in the chapter regarding student transportation. The 1999-2000 interim Education Services Committee moved that it be relocated in Chapter 15.1-09, which relates to school boards.

**SECTION 8. AMENDMENT.** Section 15.1-09-50 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**15.1-09-50. Board of education of city of Fargo - Powers.** In addition to the powers granted to all school boards by section ~~15.1-09-32~~ 15.1-09-33, the board of education of the city of Fargo has the power and duty:

1. To organize, establish, and maintain schools in the city and to change and discontinue the schools; and to liquidate the assets of discontinued schools outside the district boundaries, as authorized by the state board of public school education.
2. To lease houses or rooms for school purposes, lease lots or sites for schools, and fence real property.
3. To build, enlarge, alter, improve, and repair schools and appurtenances upon lots or sites now owned or leased for school purposes.
4. To provide, sell, exchange, improve, and repair school apparatus, books for indigent students, and appendages.

- 1           5.    To provide fuel and other supplies for the schools.
- 2           6.    To have the custody and safekeeping of the schools, books, furniture,
- 3                and appurtenances and to see that local ordinances regarding schools
- 4                are observed.
- 5           7.    To compensate teachers out of the money appropriated and provided
- 6                by law for the support of the public schools in the city so far as the
- 7                same is sufficient, and to pay any remainder due from the money
- 8                raised as authorized by this chapter.
- 9           8.    To have the control and management of the public schools of the city
- 10               and from time to time adopt rules for their good order, prosperity, and
- 11               utility.
- 12           9.    To prepare and report to the mayor and the city council ordinances
- 13               and regulations necessary for the protection, safekeeping, and care of
- 14               the schools, lots, sites, and appurtenances and all the property
- 15               belonging to the city, connected with and appertaining to the schools,
- 16               and to suggest proper penalties for the violation of ordinances and
- 17               regulations.

**NOTE:** This amendment corrects an error in the cross-reference.

18           **SECTION 9. AMENDMENT.** Subsection 9 of section 15.1-12-10 of the  
19 1999 Supplement to the North Dakota Century Code is amended and reenacted as  
20 follows:

- 21           9.    To become effective, a reorganization plan must meet all statutory
- 22                requirements and must receive approval by both the state board and a
- 23                majority of electors residing within ~~the boundaries of the proposed new~~
- 24                each school district.

**NOTE:** Section 15.1-12-10(9) is being amended because it is inconsistent with Section 15.1-12-11(6) which provides:

6.    If a majority of electors residing within each school district vote to approve the reorganization plan, the county superintendent shall make the necessary adjustments of property, debts, and liabilities and perform all duties required by law in order to establish and organize the new school district.

1           **SECTION 10. AMENDMENT.** Subsection 7 of section 21-03-07 of the 1999  
2 Supplement to the North Dakota Century Code is amended and reenacted as follows:

3           7. The governing body of any public school district may also by resolution adopted by  
4 a two-thirds vote dedicate the tax levies as authorized by section ~~15-51-11~~,  
5 ~~15-51-13~~ 15.1-09-47, 15.1-09-49, or 57-15-16 and may authorize and issue  
6 general obligation bonds to be paid by these dedicated levies for the purpose of  
7 providing funds for the purchase, construction, reconstruction, or repair of public  
8 school buildings or for the construction or improvement of a project pursuant to  
9 chapter 15-60. The initial resolution authorizing the tax levy dedication and general  
10 obligation bonds must be published in the official newspaper of the school district,  
11 and any owner of taxable property within the school district ~~may~~, within sixty days  
12 after publication, may file with the business manager of the school district a protest  
13 against the adoption of the resolution. Protests must be in writing and must  
14 describe the property that is the subject of the protest. If the governing body finds  
15 the protests to have been signed by the owners of taxable property having an  
16 assessed valuation equal to five percent or more of the assessed valuation of all  
17 taxable property within the school district, as theretofore last finally equalized, all  
18 further proceedings under the initial resolution are barred.

**NOTE:** Section 21-03-07 pertains to the issuance of bonds. Sections 15-51-11 and 15-51-13, which address the taxing authority of the Fargo Board of Education, were recodified as Sections 51.1-09-47 and 15.1-09-49.